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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,034	01/29/2002	Barry Libes	LIBES-1	7231

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WILLIAM COLLARD  
COLLARD & ROE, P.C.  
1077 NORTHERN BOULEVARD  
ROSLYN, NY 11576

EXAMINER
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WILLIAMS, MARK A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/059,034	LIBES, BARRY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark A. Williams	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6, 7, and 11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso, US Patent 6,397,431. Moe discloses the claimed combination except for explicit teaching of the securing means being located between the attached and unattached ends of the arm structure. Alonso teaches the general concept of providing securing means for arm structure 61 in the claimed manner. Such an arrangement is old and well known in the art and provides for an arm unit that can be stamped from a single piece of sheet metal. It would have been obvious at the time invention was made for one skilled in the art to have modified the design of Moe in this way, for the purpose of achieving an alternative bracket design that can be stamped from a single piece of sheet metal.

1. Claims 3, 4, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso in further view of Mitchell et al., US Patent 4,825,509. Moe does not teach a securing segment, as claimed. Mitchell teaches the general concept of securing segments for fitting around edges or corner regions as a way of securing an element. It would have been obvious at the time the invention was made for one skilled in the art to modified the device of Moe to include a securing element, as taught in Mitchell, for the purpose of providing additional means for securing the device to an edge or corner.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso and in further view of Mitchell. The combination does not explicitly teach countersunk screw hole as claimed. The examiner serves Official Notice that it is very old and well known in the art to include such structure in the design of screw holes, for the purpose of receiving the head of the screw. It would have been obvious at the time the invention was made to include such a modification in the design of the combination, for the purpose of receiving the head of the screw.

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso. The combination discloses the claimed invention except for the specified dimension of 3/8". It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the combination in this way, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Such a modification is not critical to the design and would have produced to unexpected results.

4. Claims 9 and 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso. The combination discloses the claimed invention except for the specific size of the arm. It would have been an obvious matter of design choice to having modified the device in this way, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Such a modification would have produced no unexpected results and is not considered critical to the design.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso in further view of Mitchell. The combination discloses the claimed invention except for the specific size of the securing element. It would have been an obvious matter of design choice to have modified the design in this way, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Such a modification would have produced no unexpected results and is not considered critical to the design.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moe in view of Alonso. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in this way, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Such a modification would have produced no unexpected results and is not considered critical to the design.

***Allowable Subject Matter***

7. Claim 16 is allowed.

***Response to Arguments***

8. Applicant's arguments filed 6/17/04 have been fully considered but they are not persuasive.

Applicant argues that Moe fails to disclose a basal element extending above and below the arm bracket along a line of intersection between the basal element and the arm structure. The examiner does not understand why applicant states this, since the structural arrangement of applicant's basal and arm are nearly identical to that shown in Moe. Even if such an arrangement in Moe is "twistable", as applicant asserts, there is no claimed structure sufficiently distinguishing applicant's invention from the combination, as cited in the above rejections. Note however, that there is nothing in the reference of Moe that would not suggest that it may be constructed to be firm and no yielding, except in the regions of desired weakness caused by the shown grooves.

Applicant asserts that there is no way that the device of Moe could be modified to have the securing piece (connecting segment), similar to that taught by

Alonzo, and still be stamped from a single piece of sheet metal. Note that Alonzo is relied on for the teaching of the concept of such connecting segment integrally stamped with an arm, providing added strength, as generally known in the art. In order to gain the added benefit of this strength, and simplicity of forming the device by a stamping process, one skilled in the art would know that such a concept could be incorporated to change to over all design of Moe to gain this extra benefit, as stated in the above rejection. This would be based on the desired pattern cut in the sheet metal to be stamped; then, the metal would be bent into the desired form, as well known in the art.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will



be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Mark Williams  
9/18/04

